

THE WHITE HOUSE  
WASHINGTON

December 2, 1998

The Honorable Henry Hyde  
Chairman, House Judiciary Committee  
Room 2138 Rayburn House Office Building  
United States House of Representatives  
Washington, D.C.

RECEIVED  
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COMMITTEE OF THE JUDICIARY

Dear Chairman Hyde:

We are writing to respond to your November 25 letter to the President in which you invite us, on behalf of the President, to make a presentation to the Committee about "the factual assertions in the Referral" and to "suggest any witnesses for the Committee to call."

In the seven days since that letter, the Judiciary Committee has dramatically expanded the scope of its investigation to include campaign finance practices during the 1996 presidential election, in addition to the Kathleen Willey matter. We understand that the Committee has been issuing subpoenas and gathering evidence about these additional subjects.

We will of course accept your invitation to appear before the Committee and to present a defense on behalf of the President. In light of the Committee's sudden decision to expand its activities and to pursue additional avenues of inquiry, however, we must assume your invitation extends to these new matters as well. It is plain that the scope of the defense must equal the scope of the inquiry.

To prepare adequately and to represent the President on these matters, we must have access to certain core materials. To that end, we respectfully request access to the following documents in the Committee's possession:

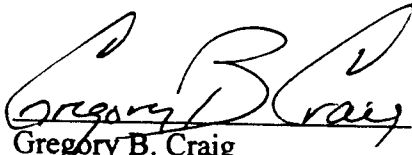
- With respect to the Starr Referral: (1) the decision(s) issued by Chief Judge Norma Holloway Johnson addressing the question of whether Ms. Lewinsky was denied access to her counsel, Mr. Frank Carter, on January 16; (2) evidence relating to the credibility of key witnesses that is in the Committee's possession and not yet been made public; (3) materials related to litigation over the enforceability of Ms. Lewinsky's initial immunity agreement; and (4) evidence relating to the OIC's application to the Attorney General for an expansion of its jurisdiction to include the Lewinsky matter;
- With respect to Kathleen Willey: the material recently provided to the Committee by the OIC; and

- With respect to campaign finance: the Freeh memorandum, the LaBella memorandum in whatever form possessed or reviewed by the Committee, and whatever other documents on this topic that the Committee has obtained.

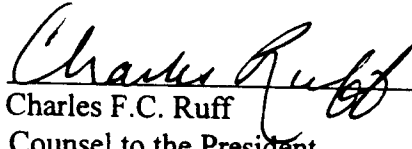
Once we have reviewed this material, we will be prepared to present a vigorous defense of the President. That presentation may include calling witnesses with respect to any or all of the matters being considered by the Committee. To speed this process and to allow us sufficient time to prepare the President's defense, we urge the Committee to provide these materials as soon as possible (since we believe the Committee currently has all these documents in its possession) or at least forty-eight hours before our appearance before the Committee next week.

Given the uncertainty of the current situation and in light of everyone's desire to complete this work as expeditiously as possible, we believe it would be helpful for us to meet with you and Congressman Conyers to discuss how best to proceed. We would be available for such a meeting at the earliest mutually convenient time.

Sincerely yours,



Gregory B. Craig  
Assistant to the President and  
Special Counsel



Charles F.C. Ruff  
Counsel to the President

HENRY J. HYDE, ILLINOIS, CHAIRMAN  
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**Congress of the United States**  
**House of Representatives**  
**COMMITTEE ON THE JUDICIARY**  
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December 3, 1998

Charles F. C. Ruff, Esq.  
Counsel to the President  
The White House  
Washington, D.C. 20500

Gregory B. Craig, Esq.  
Assistant to the President and  
Special Counsel  
The White House  
Washington, D.C. 20500

Gentlemen:

I write in response to your letter of December 2, 1998. Your letter responded to Chairman Hyde's invitation to the President to assist the Committee in its impeachment inquiry pursuant to House Resolution 581.

Chairman Hyde's letter indicated that the President could assist the Committee in establishing the facts in four ways: (1) provide the Committee with any information that tends to dispute any of the allegations against the President or the facts supporting those allegations; (2) answer the Requests for Admissions presented to the President on November 5; (3) inform the Committee of any witnesses that the President would ask the Committee to call; and (4) make a presentation to the Committee. Chairman Hyde and the President have repeatedly indicated that they would like to complete this inquiry expeditiously. The President's cooperation with these requests substantially affects the Committee's ability to do so.

Let me review the President's cooperation with these requests briefly. As to the first request, the Committee has received no response. In Mr. Kendall's appearance before the Committee during the November 19 hearing, he used the opportunity to question the methods used in the Independent Counsel's investigation, but he did not ask questions about the underlying facts. Thus, this questioning did not lead the Committee to any evidence tending to dispute any of the underlying facts.

Charles F.C. Ruff, Esq.  
Gregory B. Craig, Esq.  
December 3, 1998  
Page 2

As to the second request, on November 27, 1998, the President responded to the Committee's Requests for Admissions. As Chairman Hyde indicated in his statement of November 30, 1998, the President's responses were evasive. They did not shed any new light on the facts, and they did not lead the Committee to any exculpatory evidence.

As to the third request, your letter indicated that your presentation "may include calling witnesses with respect to any or all of the matters being considered by the Committee." In our meeting on October 21, 1998, I informed you of the Committee's procedures which are identical to those used in the President Nixon impeachment inquiry. The procedures provide that the President's counsel may request the Committee to call witnesses. However, those procedures further provide that to do so you must "submit written requests and precise summaries of what he [i.e. the President's counsel] would propose to show, and in the case of a witness, precisely and in detail what it is expected the testimony of the witness would be, if called." Once these written summaries are provided to the Committee, the Committee will determine whether to call any of these witnesses. You have now known about these procedures for six weeks – indeed, Chairman Hyde explicitly reminded the President of them in his November 25 letter. Yet the only cooperation the Committee has received is the vague suggestion that your presentation may include calling witnesses. As the Committee's procedures make clear, the White House does not have the authority to call witnesses. If you intend to ask the Committee to call witnesses on December 8, you must comply with the Committee's procedures and submit your requests, summaries, and expected testimony by the close of business tomorrow, December 4.

As to the Committee's fourth request, you responded to the invitation at the last possible moment with a list of new document demands. With respect to at least the first two sets of items requested in your letter, these issues have been on the table for some time, and I do not understand why you did not respond sooner that you needed these documents. Nonetheless, without agreeing to your characterizations of these documents, let me respond to your requests in turn.

– "[T]he decision(s) issued by Chief Judge Norma Holloway Johnson addressing the question of whether Ms. Lewinsky was denied access to her counsel, Mr. Frank Carter, on January 16" – The Committee is not in possession of these documents, and to the best of my knowledge, these documents remain under court seal.

– "[E]vidence relating to the credibility of key witnesses that is in the Committee's possession and not yet been made public" – This request is inherently vague and subject to differing interpretation. However, if you can make a more specific request, Chairman Hyde is open to allowing the President's representatives to review responsive materials in the Committee's secure information facility.

– “[M]aterials related to litigation over the enforceability of Ms. Lewinsky’s initial immunity agreement” – The Committee is not in possession of these documents, and to the best of my knowledge, these documents remain under court seal. (An opinion that appears to relate to this matter is in the public domain. *In Re: Sealed Case*, 144 F.3d 74 (D.C. Cir. 1998).)

– “[E]vidence relating to the OIC’s application to the Attorney General for an expansion of its jurisdiction to include the Lewinsky matter” – These materials are in the Committee’s possession, and Chairman Hyde is willing to allow the President’s representatives to review these materials in the Committee’s secure information facility.

– “With respect to Kathleen Willey: the material recently provided to the Committee by the OIC” – These materials are in the Committee’s possession, and Chairman Hyde is willing to allow the President’s representatives to review these materials in the Committee’s secure information facility.

– “With respect to campaign finance: the Freeh memorandum, the LaBella memorandum in whatever form possessed or reviewed by the Committee, and whatever other documents on this topic that the Committee has obtained.” – As you well know, the Freeh and LaBella memoranda are in the possession of the Department of Justice – not the Committee. The President is the chief law enforcement officer in the land, which includes directing the Department of Justice. For that reason, he may direct the Attorney General to allow him to review these documents whenever he wants. Aside from that, the Committee does not intend to address them within the limited time period that we have to complete our investigation in this Congress. Accordingly, you will not need any such documents for purposes of your possible presentation next week.

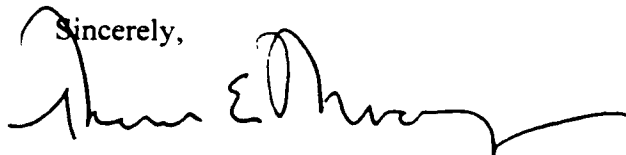
With respect to the materials mentioned above that Chairman Hyde is willing to allow you to review, that review would be under conditions similar to Judge Johnson’s order relating to the review of the LaBella and Freeh memoranda – i.e. one person could review the documents in the Committee’s secure information facility without making notes or copies.

With respect to your possible presentation next week, Chairman Hyde would appreciate your letting him know who will make the presentation and the amount of time that you request by the close of business tomorrow, December 4. Chairman Hyde would also like you to know that whoever makes the presentation will be subject to at least one full round of questioning by Members of the Committee under the five-minute rule and staff questioning.

Charles F.C. Ruff, Esq.  
Gregory B. Craig, Esq.  
December 3, 1998  
Page 4

I am hopeful that this letter provides you with sufficient information regarding the Chairman's intentions. Please contact me regarding working out the further details of these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom E. Mooney", with a long horizontal flourish extending to the right.

Thomas E. Mooney, Sr.  
General Counsel

cc: Julian Epstein

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December 4, 1998

Charles F. C. Ruff, Esq.  
Counsel to the President  
The White House  
Washington, D.C. 20500

Dear Mr. Ruff:

Yesterday, I wrote to inform you of the Committee's procedures relating to the possible presentation of the President's views to the Committee regarding the impeachment inquiry that the Committee is conducting pursuant to House Resolution 581. One of the procedures that I outlined was that the President's counsel should expect to be questioned by the Committee.

Since that time, I have seen accounts in the press attributed to White House sources that assert that such questioning is unprecedented. That is incorrect, and I am hopeful that you will assist the Committee in stopping the spread of this misinformation.

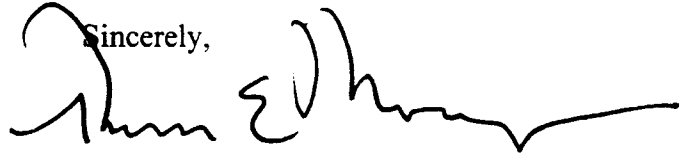
During Watergate, the President's counsel, James D. St. Clair, appeared before the Committee on June 27, 1974. The Committee questioned Mr. St. Clair at length which extended his presentation for an additional two days. Thus, the Committee's procedures in this regard closely track the Watergate model.

Aside from the clear precedent, simple fairness dictates the same result. The Committee allowed Mr. Kendall to question Judge Starr at length during which he raised many of the President's concerns about Judge Starr's conduct. In the interest of fairness, it is only right that those who have concerns about the President's conduct be allowed to raise those concerns with whomever will represent him.

Charles F.C. Ruff, Esq.  
December 4, 1998  
Page 2

Again, I hope that you will assist in stopping the spread of this misinformation. I appreciate your attention to this matter, and I look forward to your response to my letter of yesterday which I hope I will receive later today.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom E. Mooney, Sr.', with a long horizontal flourish extending to the right.

Thomas E. Mooney, Sr.  
General Counsel

cc: Julian Epstein

THE WHITE HOUSE  
WASHINGTON

December 4, 1998

Mr. Thomas E. Mooney, Sr., Esq.  
General Counsel  
Committee on the Judiciary  
House of Representatives  
Washington, D.C.

Dear Mr. Mooney:

Short of a declaration of war, there is no more significant or grave constitutional process than the impeachment inquiry currently underway in your Committee. Should the House of Representatives approve an article of impeachment against the President and send it to the Senate for trial, the impact on the national government and on the American people as a whole would be profound. For that reason alone, this process must be deliberate, thorough, fair and expeditious.

We realize that the full Committee has conducted two public hearings about impeachment-related issues -- one in which the Committee heard testimony from Mr. Starr, one in which the Committee heard testimony from witnesses about perjury. We also know that the Subcommittee on the Constitution conducted a public hearing on constitutional standards. We have been told that the Committee issued subpoenas and took deposition testimony and, further, that the Committee has held other proceedings in executive session. With the exception of one hour of time provided to us for questioning Mr. Starr at the end of his appearance before the Committee on November 19, however, we have been foreclosed from playing any role.

We are grateful for the opportunity now to do so, and the purpose of this letter is to inform you of our intention to call witnesses to appear and testify as part of the Committee's impeachment inquiry. It is our view that the proceedings to date have been inadequate and incomplete in their exploration of certain important issues relating to the proposed impeachment of President William Jefferson Clinton. For that reason, we propose to call panels of witnesses about some of the very issues that the Committee has considered. We feel it is essential to the President's defense that we be able to call our own witnesses and present our own arguments to address these important questions. We plan to call witnesses to testify about the following topics:

Constitutional Standards for Impeachment:

Standards for Prosecution: For Perjury, Obstruction of Justice and Abuse of Power; and

Prosecutorial Misconduct and the Impact of Tainted Evidence

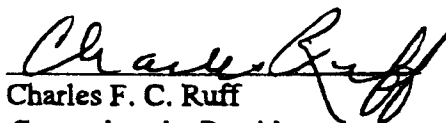
The Committee has set aside December 8 for the purpose of hearing from the President's counsel, and our request may require some modification of the Committee's plans. We take comfort, however, in the representation that Chairman Hyde made to the full Committee at the beginning of the proceeding on November 19 when he assured the members of the Committee that, "The President's counsel will have unlimited time to present his witnesses at the end of our hearings, when they are ready to do so."

We anticipate that we will require no more than three to four days of the Committee's time to deal with the topics identified above, at which time counsel for the President will present a final argument as to why, given the law, the facts, and these circumstances, this Committee should not report out articles of impeachment to the full membership of the House of Representatives. We believe that, beginning on Tuesday, December 8, our presentation could be concluded by the end of the week.

Sincerely,



Gregory B. Craig  
Assistant to the President and  
Special Counsel



Charles F. C. Ruff  
Counsel to the President

THE WHITE HOUSE

WASHINGTON

December 4, 1998

Thomas E. Mooney, Sr., Esq.  
General Counsel  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515-6216

Dear Mr. Mooney:

This is in response to your letter of today's date, as well as to one aspect of your letter of December 3.

Your characterization of the rights accorded Mr. St. Clair and his treatment by the Committee is misleading. On June 27 and June 28, 1974, Mr. St. Clair was given the opportunity to make the same sort of "initial presentation" as that made by Majority and Minority counsel. On those dates, he submitted to the Committee, orally and through numerous documents, evidence that he wished the Committee to consider. In that role he was, in essence, a witness and was treated as such -- that is, he was questioned by the Members about the evidence he was presenting to them. Even then, the transcript reveals that virtually all of the questioning had to do with technical matters involving the nature of supporting documentation and the like and not at all with the substance of the evidence or the conclusions to be drawn from it. Indeed, on occasion a Member sought to question Mr. St. Clair about his own knowledge or other similar matters, and those questions were withdrawn or ruled inappropriate.

By contrast, we would not be making any evidentiary presentation. Our role cannot, in any sense, be equated with that of Mr. Starr. He was called by the Committee as a fact witness. He was not counsel for the Majority, for the Minority, or for the President. Our intention is to appear as counsel for the President, pursuant to Procedure A(2) of the Impeachment Inquiry Procedures, "to respond to evidence received and testimony adduced by the Committee." We are not fact witnesses. We will be performing the same role that Mr. St. Clair performed on July 24, 1974 -- that is, in the nature of closing argument, he analyzed the evidence already before the Committee and explained why that evidence should lead to a particular result. As you know, Mr. St. Clair was not questioned on that occasion. We are entitled under the Committee's procedures, if there is to be any semblance of fair treatment for the President, to the same opportunity afforded Mr. St. Clair.

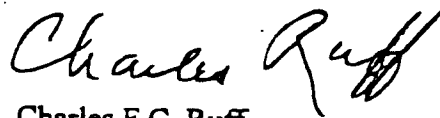
Thomas E. Mooney, Sr., Esq.

December 4, 1998

Page 2

This issue is of sufficient import to the fair conduct of these proceedings that it should be discussed in detail. We will make ourselves available at your and the Chairman's convenience.

Sincerely,

A handwritten signature in cursive script, reading "Charles Ruff". The signature is written in dark ink and is positioned above the printed name.

Charles F.C. Ruff  
Counsel to the President

cc: Julian Epstein

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December 6, 1998

Charles F.C. Ruff, Esq.  
 Counsel to the President

Gregory B. Craig, Esq.  
 Special Counsel to the President

The White House  
 Washington, D.C. 20500

Dear Messrs. Ruff and Craig:

I am in receipt of your two letters of December 4<sup>th</sup> in which you request that Members forego questions of your presentation and propose to call additional nonfactual witnesses.

In the interests of giving the White House every benefit of the doubt, the Chairman is willing to accommodate your requests, subject to two limitations. First, your requests must comply with the Impeachment Inquiry Procedures that the Committee adopted by voice vote on October 5. Second, the Committee will not undermine its goal of resolving the inquiry this year.

You have consistently ignored the rules adopted by the Committee; rules that you have been aware of for nearly two months. More than seven weeks ago, Committee counsel met with you and explained the privileges that the Committee extended to the White House. Ten days ago, Chairman Hyde reminded the President of the White House's obligation to give the Committee the appropriate notice under those procedures. When your response failed to follow those procedures, you were given an additional two days to respond. Once again, you have failed to comply with Committee procedures and demonstrated contempt for the Committee's process. I am concerned that your recent maneuvers may be little more than an attempt to delay the Committee and turn attention away from the facts before it.

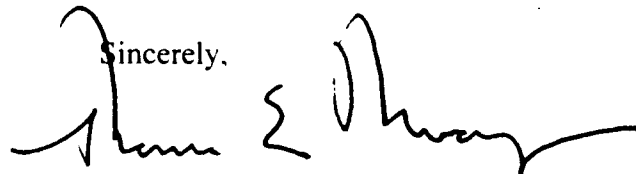
The rules are quite clear. Procedure (A)(3) states:

Should the President's counsel wish the Committee to receive additional testimony or other evidence, he shall be invited to submit written requests and precise summaries of what he would propose to show, and in the case of a witness, precisely and in detail what it is expected the testimony of the witness would be, if called.

Procedure (B)(3) states that "Committee counsel shall commence the questioning of each witness and may also be permitted by the Chairman or presiding Member to question a witness at any point during the appearance of the witness." Of course, the members of the Committee who are conducting the impeachment inquiry will be permitted to ask questions of anyone who appears before the Committee. I might remind you that this is the fifth time that the Committee has informed the White House of its procedures.

The Committee has already heard from more than thirty witnesses who testified on the constitutional standards for impeachment and the significance of perjury. The Committee has also allowed counsel for the President to personally question the Independent Counsel about any alleged prosecutorial misconduct. Nonetheless, the White House will be permitted to present those witnesses that are approved after you have submitted the names of the proposed witnesses and "written requests and precise summaries of what he would propose to show, and in the case of a witness, precisely and in detail what it is expected the testimony of the witness would be, if called" as required under the Committee's procedures. To preserve the opportunity to present witnesses, you must submit this information by noon on Monday, December 7. You must also submit the name of the counsel that will make a presentation on the President's behalf by noon Monday. The counsel for the President and any approved witnesses that he suggests will be subject to questioning by all of the Members and counsel for the majority and minority.

The White House will be given two entire days to present its case—Tuesday, December 8 and Wednesday, December 9 from 9:00 a.m. to midnight (this gives the White House up to 30 hours to present its case). As the President's counsel prepares his own final presentation to the Committee, please keep in mind that he will need to begin his testimony no later than 1:00 p.m. on Wednesday to allow for questioning by Members and counsel. The presentation by the White House must be completed on Wednesday night so that the Committee can stay on its course to resolve this matter by the end of the year. On Thursday morning, the Committee will hear a presentation by Chief Minority Counsel Abbe Lowell. On Thursday afternoon, Chief Investigative Counsel David Schippers will make a presentation. Opening statements on consideration of articles of impeachment will begin Thursday night, and the debate will continue into Friday.

Sincerely,  


THOMAS E. MOONEY  
Chief of Staff-General Counsel

cc: Julian Epstein, Minority Chief Counsel

THE WHITE HOUSE  
WASHINGTON

December 7, 1998

**BY HAND - BY FACSIMILE**

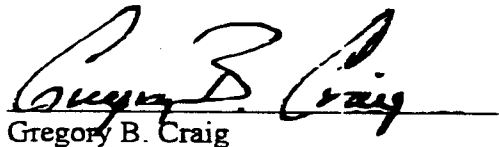
Thomas E. Mooney, Esq.  
Chief of Staff-General Counsel  
Committee on the Judiciary  
House of Representatives

Dear Mr. Mooney:

Pursuant to Procedure (A) (3), we are writing to provide you with the names of the witnesses we plan to call to testify before the Judiciary Committee on Tuesday and Wednesday this week (December 8-9) as part of the Committee's impeachment inquiry. See the attached schedule. This attachment provides a complete list of the witnesses that we currently intend to call in the two days that have been allocated for the President to present his defense, but we would appeal to the Committee for some flexibility with respect to one matter. We are still communicating with one potential witness -- who would be testifying on Wednesday morning -- in an effort to work out scheduling conflicts. If we are successful in this endeavor, we would seek leave of the Committee to provide the requisite information about this witness by the close of business today.

Prior to the testimony of the first panel of witnesses in the proceeding on Tuesday, December 8, Mr. Craig will introduce the panelists whom we have invited to testify and will describe -- briefly and generally -- the President's legal and factual defense. Mr. Ruff will make a presentation on behalf of the President on Wednesday afternoon, December 9.

Sincerely,



Gregory B. Craig  
Assistant to the President and  
Special Counsel



Charles F. C. Ruff  
Counsel to the President

## PROPOSED SCHEDULE OF WITNESSES

Tuesday, December 8, 1998

10:00 a.m. - Gregory B. Craig, Assistant to the President and Special Counsel, will make an introductory statement outlining the President's factual and legal defense and describing the evidence and the testimony that will be presented to the Committee in the course of the next two days.

Panel #1: Historical Precedents and Constitutional Standards

The Honorable Nicholas Katzenbach: Former Attorney General of the United States and Under Secretary of State; Retired Senior Vice President and Chief Legal Officer of IBM.

Mr. Katzenbach will testify about the adverse impact that the impeachment of President Clinton would have on the constitutional doctrine of separation of powers. He will discuss the dangers to the Constitution and to the institution of the presidency posed by impeaching a president on the basis of a party-line vote and in the face of a public opinion opposed to impeachment.

Professor Bruce Ackerman: Sterling Professor of Law and Political Science at Yale University and author of Volume 2, 'We the People' which includes an historical and legal analysis of the impeachment of Andrew Johnson.

Professor Ackerman will argue that, under the constitutional standards adopted by the founding fathers, President Clinton's conduct -- however one might view it legally -- does not rise to the level of an impeachable offense. Professor Ackerman will also argue that the constitutional force of any bill of impeachment approved by this House expires on January 3, 1999, and under the precedents of the Andrew Johnson impeachment, such a bill of impeachment would be open to a motion to quash to be adjudicated by the Chief Justice of the United States before trial in the Senate.

Professor Sean Wilentz: The Dayton Stockton Professor of History and Director of Program and American Studies at Princeton University. Professor Wilentz is an expert and teacher of American history from the American Revolution through Reconstruction. He is the author of six books and numerous articles and, in recognition of his scholarship, has been awarded the Albert J. Beveridge Award by the American Historical Association and the Frederick Jackson Turner Award by the Organization of American Historians.

Professor Wilentz will testify about the standards for impeachment as elaborated by the framers of the Constitution and will point out important evidence that was ignored or glossed over by

scholars who testified before the Subcommittee on the Constitution. He will also discuss the politics of impeachment and the danger that, by politicizing the process, the institution of the presidency will suffer permanent damage. Finally, he will argue that a vote to impeach President Clinton would represent a far more serious attack on the rule of law than would a vote against impeachment.

Professor Samuel H. Beer: Professor Beer is the Eaton Professor of the Science of Government, Emeritus at Harvard University. He has written and lectured and taught about the genius of the American system of government for over sixty-five years.

Professor Beer will testify that the term "high crimes and misdemeanors" referred to the use of presidential power to attack some fundamental process of the constitutional scheme. That standard is not satisfied by Mr. Starr's allegations against Mr. Clinton. To impeach President Clinton on the basis of these allegations would create a weapon that could be wielded in the future by members of Congress hostile to a future president. This would result in a fundamental change in the American political system, weakening the institution of the presidency and moving to a parliamentary system of government.

2:00 p.m.

Panel # 2: Abuse of Power

The Honorable Elizabeth Holtzman of New York  
The Honorable Robert J. Drinan, S.J. of Massachusetts  
The Honorable Wayne Owens of Utah

Three former members of the House of Representatives who served as members of the Judiciary Committee during the 1974 impeachment proceeding will testify about abuse of power as the constitutional basis for impeaching a president. They will compare the facts and circumstances relating to the conduct of President Nixon with the facts and circumstances alleged with respect to the conduct of President Clinton. They will testify about the standard of proof -- what facts must be established and to what level of certainty -- that should be satisfied before articles of impeachment are approved, and they will discuss the idea that impeachment is tantamount to a "constitutional censure."

6:00 p.m.

Panel #3 How to Evaluate the Evidence

James Hamilton: Mr. Hamilton is a member of the Washington, D. C. Law firm of Swidler Berlin Shereff & Friedman. He served as Assistant Chief Counsel in the Senate Watergate Committee and is author of "The Power to Probe: A Study of Congressional Investigations." He is former Chairman of the Legal Ethics Committee of the D.C. Bar.

Mr. Hamilton will testify about the evidentiary standards applied to the facts and circumstances relating to allegations of abuse of power in the Watergate investigation in 1974 compared with the facts and circumstances of the current investigation. He will put both of these impeachment inquiries into an historical and constitutional context, arguing that the evidence of abuse of power during the Nixon years warranted impeachment while the comparable evidence against President Clinton under consideration by the Committee at the moment does not.

Richard Ben-Veniste: Mr. Ben-Veniste served as an Assistant United States Attorney and Chief of the Special Prosecutions Section in the Office of the United States Attorney for the Southern District of New York. He was also Assistant Special Prosecutor and Chief of the Watergate Task Force from 1968-1973. More recently he served as Minority Chief Counsel to the Senate Whitewater Committee during 1995-96. He has also served as Special Counsel to the Senate Subcommittee on Government Operations and as Special Counsel to the Senate Subcommittee on District of Columbia Appropriations.

Mr. Ben-Veniste's presentation to the Committee will compare the methods of gathering and transmitting evidence during the Watergate investigation to Mr. Starr's inquiry and transmittal of evidence to the House Judiciary Committee. He will discuss the importance of public confidence in the fairness and impartiality of the Independent Counsel and will address the questions of proportionality, ethical standards and substance associated with the inquiry now before the House Committee.

Wednesday, December 9, 1998

9:30 a.m. - Prosecutorial Standards for Obstruction of Justice and Perjury

A group of lawyers experienced in the criminal justice system -- primarily as prosecutors -- will testify about prosecutorial standards under which evidence would be evaluated and cases of perjury and obstruction of justice would be brought. They will argue that the facts and circumstances surrounding the conduct of President Clinton fall short of meeting those standards and, in their judgment, would not result in his criminal prosecution.

Thomas P. Sullivan, Esq.: Mr. Sullivan is the former United States Attorney for the Northern District of Illinois. Mr. Sullivan is a senior partner at Jenner & Block and has practiced with that firm for the past 44 years. Mr. Sullivan specializes in civil and criminal trial and appellate litigation, and he has served as an instructor at Loyola Law School and for the National Institute for Trial Advocacy.

Richard J. Davis, Esq.: Mr. Davis is a partner with the New York law firm of Weil, Gotschal & Manges. He clerked for USDC Judge Jack B. Weinstein (1969-70). He served as an Assistant United States Attorney in the Southern District of New York (1970-73) and was Task Force Leader for the Watergate Special Prosecution Force (1973-75). From 1977-81, he served as Assistant Secretary of the Treasury Enforcement and Operations.

Edward S.G. Dennis, Jr., Esq. Mr. Dennis is a partner in the Litigation Section of the Philadelphia law firm of Morgan, Lewis & Bockius. He joined the firm after 15 years with the Department of Justice during which he held the following positions: Acting Deputy Attorney General, Assistant Attorney General for the Criminal Division; and U.S. Attorney for the Eastern District of Pennsylvania. He is Co-Chairman of the Corporate Investigations and Criminal Defense Practice Group.

William W. Taylor, III, Esq. Mr. Taylor served as Chair of the Criminal Justice Section of the American Bar Association from 1996-97. In that capacity, he organized a task force chaired by former Attorney General Edwin Meese to study the federalization of state crime. From 1979-84, he served as a member of the District of Columbia Commission on Judicial Disabilities and Tenure, serving as its Chair for four years. He is a Fellow of the American College of Trial Lawyers, a member of the The Fellows of the American Bar Foundation, and a member of the National Association of Criminal Defense Lawyers. Mr. Taylor is a 1966 graduate of the University of North Carolina and a 1969 graduate of Yale Law School. He clerked for the Honorable Caleb M. Wright, Chief Judge of the United States District Court for the District of Delaware.

Ronald Noble, Esq. Currently Mr. Noble is Associate Professor of Law at NYU Law School. He served as Undersecretary of the Treasury for Enforcement (1994-96); as Deputy Assistant Attorney General and Chief of Staff in the Criminal Division of the Department of Justice (1988-90); as Assistant United States Attorney in the Eastern District of Pennsylvania (1984-88).

1:00 p.m. - The Honorable Charles F. C. Ruff, Counsel to the President

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December 7, 1998

Charles F.C. Ruff, Esq.  
Counsel to the President

Gregory B. Craig, Esq.  
Special Counsel to the President

The White House  
Washington, D.C. 20500

Dear Messrs. Ruff and Craig:

The Committee is pleased to accommodate the proposed schedule of witnesses which was received from you this afternoon. While we would have in the normal course of business expected each witness to provide us with a written version of their statement prior to their testimony, we will not insist on it in this instance in light of the short notice of the identity of your witnesses.

Although the Committee had noticed its hearing for Tuesday, December 8 to begin at 9:00 a.m., so as to allow you a full 15 hours in which to present your case, we will instead begin at 10:00 at your request. It is nevertheless our intention to complete testimony by and questioning of all three panels you have proposed for December 8 that day.

The session will begin with brief opening statements by the Chairman and the Ranking Minority Member, after which we will hear from Mr. Craig. I understand that 15 minutes will be sufficient for his testimony. The remaining witnesses from Panel 1 will be allowed 10 minutes each for their oral presentation. Following their testimony, they and Mr. Craig will be available to Members of the Committee for questioning under the five minute rule.

As you have not sought to question the panels on behalf of the President, at the conclusion of questioning of Panel 1 we will move immediately to Panel 2 and then Panel 3, observing the same procedures of 10 minute witness presentations followed by questioning under the 5 minute rule. We do not intend to recess during the session.

In the interest of ensuring that the Committee can complete its questioning of the panel proposed for Wednesday, December 9, we have asked that you begin at 8:00 a.m. We await your

response to this request. In any event, testimony and questioning of that panel will follow the model established on Tuesday. As you did not provide us with information about an additional potential witness for this panel by the end of the business day today – as you requested in your letter – Panel 1 on Wednesday will be limited to the five witnesses described in the schedule attached to your earlier correspondence.

As you have acknowledged, it is imperative that Mr. Ruff begin his testimony making a presentation on behalf of the President by 1:00 p.m. on Wednesday in order to permit a full examination of the witness by the Committee and its counsel. The schedule that you have proposed and the Committee has accepted will meet that important deadline.

I look forward to hearing from you on behalf of the President beginning promptly tomorrow morning at 10:00 a.m.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom E. Mooney', with a long horizontal flourish extending to the right.

THOMAS E. MOONEY  
Chief of Staff – General Counsel

cc: Julian Epstein, Minority Chief Counsel